

**SENATE, No. 1429**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Co-Sponsored by:**

**Senator Cruz-Perez**

**SYNOPSIS**

Revises and expands laws on trespass and vandalism on agricultural and horticultural lands.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/1/2018)**

1 AN ACT concerning trespass and vandalism on agricultural or  
2 horticultural lands and amending various parts of the statutory  
3 law.

4  
5 BE IT ENACTED by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 2 of P.L.1983, c.522 (C.2C:18-5) is amended to read  
9 as follows:

10 2. It is an offense under **[this act]** P.L.1983, c.522 (C.2C:18-4  
11 et seq.) to:

12 a. Knowingly or recklessly operate a motorized vehicle or to  
13 ride horseback upon the lands of another without obtaining and in  
14 possession of the written permission of the owner, occupant, **[or]** ,  
15 lessee, or licensee thereof.

16 b. Knowingly or recklessly damage or injure any tangible  
17 property, including, but not limited to, any fence, building,  
18 feedstocks, crops, live trees, or any domestic animals, located on  
19 the lands of another.

20 (cf: P.L.1983, c.522, s.2)

21  
22 2. Section 3 of P.L.1983, c.522 (C.2C:18-6) is amended to read  
23 as follows:

24 3. a. An offense pursuant to section 2 of **[this act]** P.L.1983,  
25 c.522 (C.2C:18-5) is a crime of the third degree if the actor causes  
26 pecuniary loss of **[\$2,000.00]** \$2,000 or more; a crime of the fourth  
27 degree if the actor causes pecuniary loss **[in excess]** of **[\$500.00]**  
28 more than \$500 but less than **[\$2,000.00]** \$2,000; and a disorderly  
29 persons offense if **[he]** the actor causes pecuniary loss of  
30 **[\$500.00]** \$500 or less.

31 b. The provisions of N.J.S.2C:43-3 to the contrary  
32 notwithstanding, in addition to any other sentence which the court  
33 may impose pursuant to subsection c. of this section or any other  
34 provision of law, a person convicted of an offense under **[this act]**  
35 P.L.1983, c.522 (C.2C:18-4 et seq.) shall be sentenced to make  
36 restitution, and to pay a fine of not less than **[\$500.00]** \$500 if the  
37 offense is a crime of the third degree; to pay a fine of not less than  
38 **[\$200.00]** \$200 if the offense is a crime of the fourth degree; and to  
39 pay a fine of not less than **[\$100.00]** \$100 when the conviction is  
40 of a disorderly persons offense.

41 c. A person who is convicted of an offense pursuant to section  
42 2 of P.L.1983, c.522 (C.2C:18-5), in addition to any other fine,  
43 penalty, or restitution which may be imposed by law, is liable to the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 owner, occupant, lessee, or licensee of the lands or of the tangible  
2 property for any reasonable and necessary expenses, including  
3 reasonable attorney fees, incurred by the owner, occupant, lessee, or  
4 licensee to ensure that the lands or the tangible property are restored  
5 to their condition prior to commission of the offense. The court  
6 shall make a finding of the amount of expenses incurred and  
7 damages sustained and order the defendant to pay as appropriate.  
8 (cf: P.L.1983, c.522, s.3)

9  
10 3. R.S.4:17-2 is amended to read as follows:

11 4:17-2. a. **Any** Except as provided otherwise pursuant to  
12 subsection b. of this section, any person who trespasses upon the  
13 agricultural or horticultural lands of another is liable to a civil  
14 penalty of not less than \$100.00, to be collected in a civil action by  
15 a summary proceeding under "the penalty enforcement law"  
16 (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction  
17 to enforce "the penalty enforcement law." If the violation is of a  
18 continuing nature, each day during which it continues constitutes an  
19 additional, separate and distinct offense **\$100.**

20 b. In addition to any other applicable fines, penalties, or  
21 restitution that may be assessed pursuant to section 3 of P.L.1983,  
22 c.522 (C.2C:18-6) or any other law, any person who knowingly or  
23 recklessly operates a motorized vehicle or rides horseback upon the  
24 lands of another without obtaining and in possession of the written  
25 permission of the owner, occupant, lessee, or licensee thereof, or  
26 damages or injures any tangible property, including, but not limited  
27 to, any fence, building, feedstocks, crops, live trees, or any  
28 domestic animals, located on the lands of another shall be liable to:

29 (1) a civil penalty of not less than \$1,000; and

30 (2) the owner, occupant, lessee, or licensee of the lands for any  
31 reasonable and necessary expenses, including reasonable attorney  
32 fees, incurred by the owner, occupant, lessee, or licensee to ensure  
33 that the lands are restored to their condition prior to commission of  
34 the offense.

35 The court shall make a finding of the amount of expenses  
36 incurred and damages sustained and order the defendant to pay as  
37 appropriate.

38 c. Any civil penalty imposed pursuant to subsection a. or b. of  
39 this section shall be collected in a civil action by a summary  
40 proceeding under the "Penalty Enforcement Law of 1999,"  
41 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the  
42 municipal court shall have jurisdiction to enforce the "Penalty  
43 Enforcement Law of 1999." If the violation is of a continuing  
44 nature, each day during which it continues shall constitute an  
45 additional, separate and distinct offense.

46 d. Nothing in this article shall relieve owners of agricultural or  
47 horticultural lands from the obligation to provide conspicuous  
48 posting prohibiting trespass on the waters or banks along or around

1 any waters listed for stocking with fish in the current fish code  
2 adopted pursuant to section 32 of P.L.1948, c. 448 (C.13:1B-30)  
3 before a trespass violation may be found.

4 e. As used in this **【act】** article, "agricultural or horticultural  
5 lands" means lands devoted to the production for sale of plants and  
6 animals useful to man, encompassing plowed or tilled fields,  
7 standing crops or their residues, cranberry bogs and appurtenant  
8 dams, dikes, canals, ditches and pump houses, including  
9 impoundments, man-made reservoirs and the adjacent shorelines  
10 thereto, orchards, nurseries and lands with a maintained fence for  
11 the purpose of restraining domestic livestock. "Agricultural or  
12 horticultural lands" shall also include lands in agricultural use, as  
13 defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public  
14 notice prohibiting trespass is given by actual communication to the  
15 actor, conspicuous posting, or fencing or other enclosure manifestly  
16 designed to exclude intruders. **【Nothing in this act shall relieve**  
17 **owners of agricultural or horticultural lands from the obligation to**  
18 **provide conspicuous posting prohibiting trespass on the waters or**  
19 **banks along or around any waters listed for stocking with fish in the**  
20 **current fish code adopted pursuant to section 32 of P.L.1948, c. 448**  
21 **(C.13:1B-30) before a trespass violation may be found.】**  
22 (cf: P.L.1991, c.91, s.172)

23  
24 4. R.S.4:17-3 is amended to read as follows:

25 4:17-3. A person who shall violate any of the provisions of this  
26 article may be arrested without warrant by the owner, occupant,  
27 lessee, or licensee, or an officer of the law and taken for trial before  
28 **【a court mentioned in section 4:17-2 of this Title】** the appropriate  
29 court pursuant to R.S.4:17-2.  
30 (cf: P.L.1953, c.5, s.42)

31  
32 5. R.S.4:17-4 is amended to read as follows:

33 4:17-4. In a prosecution for violation of the provisions of this  
34 article, the failure of the defendant to produce a written permit to  
35 enter upon the lands upon which **【he】** the defendant is charged with  
36 trespassing, signed by the owner, occupant, lessee, or licensee  
37 thereof, shall be prima facie proof that **【he】** the defendant was  
38 forbidden **【so to trespass by such】** by the owner, occupant, lessee,  
39 or licensee to enter upon the lands of the owner, occupant, lessee, or  
40 licensee.  
41 (cf: R.S.4:17-4)

42  
43 6. R.S.4:17-5 is amended to read as follows:

44 4:17-5. Upon the failure of a person convicted of violating the  
45 provisions of this article to pay a fine as imposed **【as provided in】**  
46 pursuant to this article, the court **【before whom the conviction is**

1 had] convicting the person may commit such person to the county  
2 jail until the fine is paid.  
3 (cf: P.L.1953, c.5, s.43)  
4

5 7. This act shall take effect immediately.  
6  
7

8 STATEMENT  
9

10 This bill revises, expands, and clarifies the restitution and  
11 penalty provisions established in law for trespassers and vandals on  
12 agricultural or horticultural lands.

13 Current law provides that it is a criminal offense to:

14 (1) knowingly or recklessly operate a motorized vehicle or ride  
15 horseback upon the lands of another without obtaining and  
16 possessing the written permission of the owner, occupant, or lessee  
17 thereof; or

18 (2) knowingly or recklessly damage or injure any tangible  
19 property, including, but not limited to, any fence, building,  
20 feedstocks, crops, live trees, or any domestic animals, located on  
21 the lands of another.

22 The degree of the offenses described above ranges under current  
23 law from a disorderly persons offense to fourth degree or third  
24 degree crime, depending upon the pecuniary loss involved. A  
25 person convicted of one of these offenses is required to make  
26 restitution and pay certain minimum mandatory fines in addition to  
27 any other penalties that may be assessed for the particular degree of  
28 the offense.

29 Current law also provides that a trespasser on agricultural or  
30 horticultural lands is subject to a civil fine of at least \$100.

31 This bill provides that a person who is convicted of one of the  
32 criminal offenses listed above is liable to the owner, occupant,  
33 lessee, or licensee (the bill adds licensee to the list of possible  
34 victims under the current law) of the lands or of the tangible  
35 property for, in addition to any other fine, penalty, or restitution  
36 which may be imposed by law, any reasonable and necessary  
37 expenses, including reasonable attorney fees, incurred by the owner,  
38 occupant, lessee, or licensee to ensure that the lands or the tangible  
39 property are restored to their condition prior to commission of the  
40 offense. The court hearing the case would be required to make a  
41 finding of the amount of expenses incurred and damages sustained  
42 and order the defendant to pay them as appropriate.

43 The bill establishes a civil penalty of at least \$1,000 for persons  
44 who: (1) knowingly or recklessly operate a motorized vehicle or  
45 ride horseback upon the lands of another without obtaining and  
46 possessing the written permission of the owner, occupant, lessee, or  
47 licensee thereof; or (2) knowingly or recklessly damage or injure  
48 any tangible property, including, but not limited to, any fence,

1 building, feedstocks, crops, live trees, or any domestic animals,  
2 located on the lands of another. For these civil offenses too, the  
3 court hearing the case would be required to make a finding of the  
4 amount of expenses incurred and damages sustained and order the  
5 defendant to pay them as appropriate.